



AN ACT CLARIFYING THE DISTRIBUTION OF THE AVIATION FUEL TAX; AMENDING SECTIONS 15-70-221 AND 67-1-301, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-70-221, MCA, is amended to read:

**"15-70-221. Refund or credit authorized.** (1) A person who purchases and uses any gasoline on which the Montana gasoline license tax has been paid for denaturing ethanol to be used in ethanol-blended gasoline, for operating stationary gasoline engines used off the public highways and streets, or for any commercial use other than operating vehicles upon any of the public highways or streets of this state is allowed a refund of the amount of tax paid directly or indirectly on the gasoline. The refund may not exceed the tax paid or to be paid to the state. Except as provided in subsection (5), a refund is not allowed for the tax per gallon upon aviation fuel allocated to the department of transportation by 67-1-301.

(2) A distributor who pays the gasoline license tax to this state erroneously is allowed a credit or refund of the amount of tax paid erroneously.

(3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline with a tax liability of \$200 or greater for which the distributor has not received consideration from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor may not have declared the accounts of the purchaser worthless more than once during a 3-year period, and the distributor must have claimed those accounts as bad debts for federal or state income tax purposes.

(b) If a credit has been granted under this subsection (3), any amount collected on the accounts that were declared worthless must be reported to the department and the tax due must be prorated on the collected amount and must be paid to the department.

(c) The department may require a distributor to submit periodic reports listing accounts that are delinquent for 90 days or more.

(4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline on

which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid unless the person is not licensed and is not paying the tax to the state the fuel is destined for. The credit or refund must be made upon completion of the information reports required under 15-70-209 and presentation to the department of proof of delivery outside Montana as it may by rule require.

(5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license tax has been paid. The refund must be paid from the account established in 67-1-301(3)(a)(ii)."

**Section 2.** Section 67-1-301, MCA, is amended to read:

**"67-1-301. Money -- receipt and disbursement.** (1) All costs and expenses of administering this title, including the salaries of employees of the department engaged in functions pertaining to aeronautics, the expenses of members of the board, and all other disbursements necessary to carry out the purposes of this title, must be paid out of the following revenue:

(a) all gifts and all legislative appropriations to the department for aeronautics;

(b) all money received from any branch or department of the federal government or from other sources for the purposes ~~mentioned in~~ of this title or for the furtherance of aeronautics generally in this state.

(2) All money collected under subsection (1) must be deposited in the state treasury to the credit of the department.

(3) (a) ~~The~~ Except as provided in subsection (5), the following amounts must be deposited from the proceeds of the 4-cent-a-gallon tax imposed on aviation fuel by 15-70-204(1)(a):

(i) in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 2 cents a gallon collected under 15-70-204(1)(a) for the sole purpose of carrying out its functions pertaining to aeronautics; and

(ii) in a separate account in the state special revenue fund to the credit of the department;

~~(A)~~ an amount equal to the proceeds of 2 cents a gallon to provide refunds pursuant to 15-70-221(5), to provide grants to municipalities for airport development or improvement programs, and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways; and

~~(B) 25% of the amount collected from scheduled passenger air carriers certified under 14 CFR, part 121~~

or 135.

(b) Money deposited in the account created in 67-1-306 may, with the approval of the board, be used only to provide loans to local governments and state agencies for aeronautical purposes, including airport improvement. The board shall establish procedures, including the interest rate charged, for providing loans. Proceeds of all repayments of loans, including interest, made under this subsection (3)(b) must be deposited in the account created in 67-1-306.

(c) Money deposited in the separate account established in subsection (3)(a)(ii) may, after refunds are provided pursuant to 15-70-221(5) and with the approval of the board, be used only to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways. The board shall establish procedures for the awarding of grants.

(4) Except as provided in 15-70-221, the gasoline license tax imposed by the laws of this state on aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded.

(5) Of the amount of aviation fuel tax collected from the scheduled passenger air carriers certified under 14 CFR, part 121 or 135, 25% must be deposited in ~~the~~ an account separate from the account ~~provided for~~ established in subsection (3)(a)(ii) to be used only for pavement preservation grants, with the approval of the board, on airports served by these air carriers."

**Section 3. Effective date.** [This act] is effective July 1, 2009.

**Section 4. Applicability.** [This act] applies to taxes imposed on aviation fuel after June 30, 2009.

- END -

I hereby certify that the within bill,  
SB 0116, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

SENATE BILL NO. 116

INTRODUCED BY J. KEANE

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

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